



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,885	03/10/2004	Edward I. Clare JR.	3393	5079

23618 7590 10/04/2005

CHASE LAW FIRM L.C
4400 COLLEGE BOULEVARD, SUITE 130
OVERLAND PARK, KS 66211

EXAMINER

KRISHNAMURTHY, RAMESH

ART UNIT	PAPER NUMBER
----------	--------------

3753

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

8P

Office Action Summary	Application No. 10/797,885	Applicant(s) CLARE, EDWARD I.	
	Examiner Ramesh Krishnamurthy	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 15 is/are pending in the application.
- 4a) Of the above claim(s) 1 - 5 & 11 - 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This office action is responsive to communications filed 03/03/2005.

Claims 1 – 15 are pending.

1. This application contains claims directed to the following patentably distinct species of the claimed invention: Species A (Figs. 2 & 3) and Species B (Figs. 4 and 5).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

Art Unit: 3753

the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with attorney Mark Brown on 09/26/05 a provisional election was made without traverse to prosecute the invention of Species B, claims 6 - 10. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1 – 5 and 11 – 15 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Magowan, Jr. (US 2,929,399).

Magowan, Jr. discloses (Figs. 1 – 3), a check valve (11) adapted for delayed gas pressure release, which comprises: a body with a proximal supply end (13) and a distal power end (14); a female-threaded supply end receiver (16) open at said supply end; a female-threaded power end receiver (49) open at said power end; a passage extending between and selectively communicating said receivers; a seat (30) located between said passage and said supply end receiver and including a discharge port; said passage having a female-threaded set screw receiver (portion of (45) that receives the washer (57) adjacent to said power end receiver and a ball chamber located between said set screw receiver and said supply end receiver; said ball chamber having a cross-sectional

Art Unit: 3753

configuration with a central core and multiple, radially spaced, channels each extending longitudinally from said set screw receiver to said seat and having radiused channel sides adjacent to said core and a radiused channel outermost portion (see Fig. 3); a ball (23) movably position within said passage central core between a closed position engaging said seat and an open position disengaged from said seat; a return spring (51) located in said passage and engaging said ball, said spring biasing said ball towards its closed position; and a bypass (59) extending between and communicating said supply receiver and said passage, said bypass being adapted to dissipate gas through said valve with said ball in its closed position and said bypass being aligned with a respective said channel; and a bypass extending between and communicating said passage and said supply end receiver.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8 – 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magowan, Jr. as set forth above.

The patent to Magowan, Jr. discloses the claimed invention with the exception of explicitly disclosing a male coupling threadably received in said supply end receiver. Magowan discloses a female coupling (18) threadably received in the supply end receiver (16). To provide a male coupling instead is a mere reversal of parts and the

Art Unit: 3753

courts have generally held that reversal of parts is an expedient that is obvious to one of ordinary skill in the art. *In re Gazda*, 219 F.2d 449, 104 USPQ 400 (CCPA 1955).

Magowan, Jr. discloses a male power hose coupling (49) for connection a hose (50), the coupling being threadably received in the power end receiver.

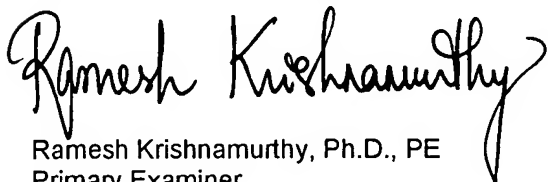
As for the sealing washers recited in claim 10, examiner takes official notice that it is notorious in the art to provide sealing washers between threaded parts for the purpose of providing enhanced sealing therebetween.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (571) 272 – 4914. The examiner can normally be reached on Monday - Friday from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick Nicolas, can be reached on (571) 272 – 4931. The fax phone number for the organization where this application or proceeding is assigned is (571) 273 – 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ramesh Krishnamurthy, Ph.D., PE
Primary Examiner
Art Unit 3753